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RECENT DECISIONS — TITLES

BANKRUPTCY — DEBTOR'S EXERCISE OF THE CRAM DOWN OPTION — VALUATION STANDARD FOR COLLATERAL IN CHAPTER 13 — The Supreme Court of the United States held that section 506(a) of the Bankruptcy Code directs the application of the replacement value standard to collateral when a Chapter 13 debtor exercises the cram down option of section 1325(a)(5)(B) in its rehabilitation plan by retaining and using the collateral over the secured creditor's objection.

Associates Commercial Corp. v. Rash, 117 S. Ct. 1879 (1997)

Dawn M. Baumholtz 455

CONSTITUTIONAL LAW — FIRST AMENDMENT — ENFORCEMENT CLAUSE — RELIGIOUS FREEDOM RESTORATION ACT OF 1993 — The United States Supreme Court held that Congress' passage of the Religious Freedom Restoration Act of 1993 violated the Enforcement Clause of the United States Constitution.

City of Boerne v. Flores, 117 S. Ct. 2157 (1997)

Melissa M. Furrer 981

CONSTITUTIONAL LAW—FIRST AMENDMENT—FREEDOM OF SPEECH—PRIOR RESTRAINT— The Supreme Court of the United States held that an injunction providing for a "fixed buffer zone" around an abortion clinic and a cease and desist provision are valid, however, a "floating buffer zone" surrounding clinic patients violates the protesters' First Amendment right of free speech.

Schenck v. Pro-Choice Network of Western New York, 117 S. Ct. 855 (1997).

Michael L. Utz 229

CONSTITUTIONAL LAW — FIRST AMENDMENT — FOURTEENTH AMENDMENT — FREEDOM OF ASSOCIATION — EQUAL PROTECTION — The Supreme Court of the United States held that, notwithstanding the First Amendment right of political parties to express the shared views and ideals of their members, states may enact statutes that ban "fusion candidacies," provided that the statutes are a reasonable and nondiscriminatory means of furthering a legitimate state interest.

Timmons v. Twin Cities Area New Party, 117 S. Ct. 1364 (1997)

Joseph E. Haviland 207

CONSTITUTIONAL LAW — FOURTH AMENDMENT — CRIMINAL PROCEDURE — “KNOCK AND ANNOUNCE” RULE — The Supreme Court of the United States held that the common law “knock and announce” rule was an indispensable component of the Fourth Amendment’s “reasonableness” requirement, and therefore, should not be subject to a per se blanket exception.

Richards v. Wisconsin, 117 S. Ct. 1416 (1997)

Brian Simmons 1025

CONSTITUTIONAL LAW — FOURTH AMENDMENT — CRIMINAL PROCEDURE — ORDERING PASSENGERS OUT OF VEHICLE DURING TRAFFIC STOP — The Supreme Court of the United States held that a police officer who orders passengers to exit a vehicle until completion of a traffic stop does not violate the Fourth Amendment to the United States Constitution because the public interest in the safety of law enforcement personnel outweighs an individual’s right to be free from arbitrary interference.

Maryland v. Wilson, 117 S. Ct. 882 (1997)

Brian M. Silver 1011

CONSTITUTIONAL LAW — INTERSTATE COMMERCE — DORMANT COMMERCE CLAUSE — MUNICIPAL WASTE CONTROL — The Supreme Court of Pennsylvania held that a municipal waste flow control plan violated the Commerce Clause of the United States Constitution because the plan required that all municipal waste generated within the municipality for ten years be disposed of at one of three designated sites.

Empire Sanitary Landfill v. Department of Env’tl. Resources, 684 A.2d 1047 (Pa. 1996)

Donald R. Palladino 689

CONSTITUTIONAL LAW — PROCEDURAL DUE PROCESS — EMPLOYMENT — SUSPENSION — STATE EMPLOYEES — The Supreme Court of the United States held that a state university employee suspended without pay due to his arrest on drug-related charges was not entitled under the Due Process Clause to notice and a hearing prior to his suspension.

Gilbert v. Homar, 117 S. Ct. 1807 (1997)

Matthew Q. Ammon 951

CONSTITUTIONAL LAW — STANDING — SEPARATION OF POWERS — The Supreme Court of the United States refused to rule on whether the Line Item Veto Act of 1996 violated the Constitutional separation of powers by impermissibly delegating legislative powers to the President because the Congressmen who brought the suit did not have standing to maintain the action.

Raines v. Byrd, 117 S. Ct. 2312 (1997)

Michael J. Cremonese 961

CONSTITUTIONAL LAW — SUBSTANTIVE DUE PROCESS — DOUBLE JEOPARDY — EX POST FACTO — The Supreme Court of the United States held that a Kansas statute providing for civil commitment of persons convicted of a sexually violent offense after release from prison does not violate substantive due process under the Fourteenth Amendment and does not invoke the protection afforded criminal defendants under the Constitution's Double Jeopardy and Ex Post Facto Clauses.

Kansas v. Hendricks, 117 S. Ct. 2072 (1997)

Jenine E. Elco 471

CONSTITUTIONAL LAW — TENTH AMENDMENT — STATE SOVEREIGNTY — The Supreme Court of the United States held that a federal statute requiring state chief law enforcement officers to conduct background investigations on potential handgun purchasers was unconstitutional because it encroached upon the rights reserved to the states by the Tenth Amendment to the United States Constitution.

Printz v. United States, 117 S. Ct. 2365 (1997).

Michael L. Johnson 493

CRIMINAL LAW — RAPE — UNCONSCIOUS VICTIM — The Supreme Court of Pennsylvania held that a victim is "unconscious" under 18 Pa. Cons. Stat. section 3121(3) even if the victim can remember some details of the rape.

Commonwealth v. Erney, 698 A.2d 56 (Pa. 1997).

Melissa A. Struzzi 705

EMPLOYMENT LAW — FEDERAL EMPLOYERS' LIABILITY ACT — The Supreme Court held that an employee who suffered prolonged asbestos exposure could not recover under FELA for negligently inflicted emotional distress unless, and until, the employee had manifested physical symptoms of disease.

Metro-North Commuter R.R. Co. v. Buckley,
117 S. Ct. 2113 (1997).

Anthony Lamanna 993

LABOR LAW — UNEMPLOYMENT COMPENSATION — VOLUNTARY TERMINATION OF EMPLOYMENT — The Supreme Court of Pennsylvania held that a claimant who is justifiably demoted and subsequently terminates his employment is not entitled to receive unemployment compensation. *Allegheny Valley Sch. v. Pennsylvania Unemployment Compensation Bd.*, 697 A.2d 243 (Pa. 1997).

Christine M. Gass 639

MILITARY AFFAIRS — VETERANS' PREFERENCE ACT — STATUTORY CONSTRUCTION — The Commonwealth Court of Pennsylvania held that honorably discharged veterans of the United States Reserves or National Guard are eligible for employment preference in public positions only when they fulfill their complete military obligations. *Sicuro v. City of Pittsburgh*, 684 A.2d 232 (Pa. Commw. Ct. 1996).

John M. Lasky 671

PATENT LAW — INFRINGEMENT — DOCTRINE OF EQUIVALENTS — PROSECUTION HISTORY ESTOPPEL — The Supreme Court of the United States held that the doctrine of equivalents is not inconsistent with the Patent Act; that the doctrine of equivalents is to be applied to individual elements of a patent claim as opposed to the invention as a whole; that prosecution history estoppel applies to all changes made to an application during prosecution in the form of a rebuttable presumption against the patentee that can be overcome with a sufficient showing that the change was not relevant to patentability.

Warner-Jenkinson Co., Inc. v. Hilton Davis Chem. Co.,
117 S. Ct. 1040 (1997).

Charles H. Dougherty, Jr. 185

PROFESSIONAL ETHICS — ATTORNEY MISCONDUCT — RULES OF DISCIPLINARY ENFORCEMENT — The Supreme Court of Pennsylvania held that an attorney may not rely on purported “mitigating evidence” to avoid disbarment when he perpetrates a fraud on the judicial system by using an impersonator to orchestrate the conviction of one client to benefit another client because of the “egregious” nature of the offense.

Office of Disciplinary Counsel v. Raiford, 687 A.2d 1118 (Pa. 1997).

Gerald J. Kross 651

UNIFORM COMMERCIAL CODE — ARTICLE III — ARTICLE IX — STATUS OF PERSONAL PROPERTY USED AS COLLATERAL — DEFICIENCY JUDGMENT ACT — The Supreme Court of Pennsylvania split on the question of when the Deficiency Judgment Act places a debtor’s personal property offered as collateral beyond the reach of a judgment creditor when the agreement between the parties can be interpreted under either Article III or Article IX of the Uniform Commercial Code.

Horbal v. Moxham Nat’l Bank, 697 A.2d 577 (Pa. 1997).

David C. Bruening 619